HIGH COURT OF UTTARANCHAL AT NAINITAL.

Criminal Revision No. 669 of 2001
(Old No. 909/1985)

Bahadur Singh Bhandari …….. Revisionist

Vs.

State of U.P. …….Respondent

Hon'ble Irshad Hussain, J.

Heard Sri B.D. Upadhyaya learned counsel for the revisionist and Sri Lalit Verma learned A.G.A. and perused the record.

This criminal revision under section 397/401 of the Code of Criminal Procedure (for short 'Code') has been preferred against the impugned judgment and order dated 26.9.1984 passed by the then Sessions Judge, Almora dismissing the criminal appeal no. 14/1984 and confirming the judgment dated 28.3.1984 passed by the Munsif Magistrate, Ranikhet in criminal case no. 41/1983.

The case of the prosecution, briefly stated, was that on 10.6.1982 at about 4:55 p.m. the complainant-Major G.S.Bisht went to saw off his elder brother at Roadways Station, Ranikhet and while he was waiting there the revisionist-accused came there from his back and pushed him forward resulting which the said victim fell on basket of 'Kaffal' and he sustained injuries. The matter was reported and after investigation the revisionist-accused was charge-sheeted.

In the trial, the complainant (PW-3) and other witnesses were examined. The complainant supported the prosecution version. The learned Magistrate found that the evidence of the said injured was corroborated by the medical evidence which consists of the statement of Dr. Pal (PW-2). Nothing was shown in the cross-examination of the said victim as may indicate that the revisionist was falsely implicated. Considering the sufficient evidence of the injured-victim the revisionist was held guilty and convicted under section 323/506 IPC. However, instead of sentencing him the learned Magistrate gave him benefit of probation of First Offenders Act, 1958. On an appeal being preferred by

the revisionist the same was dismissed by the Sessions Judge, Almora per judgement and order dated 26.9.1984.

Learned counsel for the revisionist submitted that there was no independent evidence to corroborate the evidence of the victim. I see no substance in the arguement of the learned counsel for the revisionist because in a case of this nature, the corroboration can be obtained from the medical evidence which was there in the instant case and therefore, even if, no independent witness was there to corroborate the evidence of the injured there was nothing to desist the learned Magistrate to come to the conclusion that the occurrence took place in the manner as alleged by the said victim that he was assaulted in the manner as stated to in the evidence. There is absolutely no perversity in the appreciation of the evidence either by the trial Magistrate or by the appellate court and therefore there being no merit in this revision the same is liable to be dismissed.

The revision is hereby dismissed.

(Irshad Hussain, J.)

Dated 28.5.2004

Rawat